

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte EDWARD A. SCHROEDER

Appeal No. 2002-0152
Application No. 09/004,775

ON BRIEF

Before ABRAMS, STAAB and BAHR, Administrative Patent Judges.
BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 and 3-25, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellant's invention relates to a direct mount, telescopic adjustable basketball backboard and rim structure (specification, page 1). A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

The examiner relied upon the following prior art references in rejecting the appealed claims:

White	4,395,040	Jul. 26, 1983
Lykens	4,941,661	Jul. 17, 1990

The admitted prior art of Figure 2 in U.S. Patent No. 5,279,496, issued Jan. 18, 1994 to Schroeder (AAPA)

Claims 1 and 3-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Lykens and White.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejection, we make reference to the answer (Paper No. 21) for the examiner's complete reasoning in support of the rejection and to the brief and reply brief (Paper Nos. 17 and 20) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims¹, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

Each of appellant's independent claims 1, 7, 12 and 18 requires, inter alia, a center bracket connected directly to a slide and having apertures for receiving fasteners for mounting a rim directly to the slide². The center bracket 94 of appellant's invention is best illustrated in Figure 3 and described on page 7 of the specification. Consistent with this illustration and underlying disclosure, we understand a "center bracket" as

¹ The examiner may wish to review the claim language "the center bracket having a width approximating the separation distance of the apertures and the single support strut" in claims 1 and 18 and the limitation "the combined slides and center bracket extending substantially the height of the backboard" (note, for example, Figure 6, wherein the combined length of the slides and center bracket appears to be substantially greater than the height of the backboard) in claims 1, 8 and 24 to determine whether the meaning of these limitations is clear and whether they are consistent with appellant's underlying disclosure. Additionally, the examiner should consider whether the backboard, rim and support strut are part of the claimed invention in each of appellant's claims. If the examiner determines that any of the above-noted limitations are unclear, confusing or inconsistent with the underlying disclosure or that it is not clear whether the backboard, rim or support strut is included as part of the claimed invention in any of appellant's claims, the examiner should consider whether any rejections under 35 U.S.C. § 112 are appropriate.

² While the characterization of a rim fastened to the center bracket as being mounted "directly" to the slide seems somewhat imprecise, we understand this limitation as requiring that the center bracket be provided with apertures for mounting the rim to the center bracket. A center bracket having such apertures which is also connected directly to a slide or pair of slides, as also required by each of the independent claims, is considered to have apertures for mounting the rim directly to the slide or slides as required by the claims.

used in the claims as a bracket disposed along the centerline of the backboard and rim structure.

The AAPA (Figure 2 of the Schroeder patent) structure which is the jumping off point of the examiner's rejection includes a pair of mounting brackets 66 connected by U-bolts 68 to a tubular center strut 50, a frame including a pair of vertical guides 62 connected via horizontal elements 64 to the brackets 66, a pair of slides 58 vertically slidably mounted over the guides 62, vertical members 54 attached to the slides and lateral supports 52 attached to the vertical members 54 using U-bolts 56, a backboard 20 mounted to the lateral supports and a rim 22 generally mounted to the backboard structure or frame (column 4, lines 5-6).

The explanation of the examiner's rejection, as articulated on page 3 of the answer, is as follows:

Schroeder discloses a support mount (66) coupled to a single support strut (50); a guide connected to the support mount (62); a pair of slides mounted to the guide (58); a backboard (20); a drive for positioning said slide along the guide (70); attachment means for the rim, backboard, guide and support (fig 2). The Schroeder art is unclear in the exact means of attachment of the rim and backboard to the support structure. White discloses the rim attached to the slide apparatus (45^[3]). It would have been obvious to an ordinary person skilled in the art to have employed the attachment means and apertures of White with the apparatus of fig 2 in order to produce an attached rim which

³ In that White's reference numeral 45 denotes a bolt, we presume that the examiner intended to refer to the goal mounting members 44 as responding to the "slide."

would convey the impact forces directly to the support structure instead of indirectly through the backboard in order to prevent the rim from breaking away from the backboard and interrupting the game. However fig 1 of White shows the attachment means of the rim to the slide slightly below the slide. Lykens shows a direct connection (11,13, 14, fig 1, fig 5). It would have been obvious to have employed the attachment position used with the Lykens apparatus and the Schroeder apparatus to prevent the rotational forces present in the off set White apparatus and improve the durability of the apparatus.

After carefully considering the teachings of the AAPA, as illustrated in Figure 2 and described in column 1, lines 51-58, and column 3, line 58, to column 4, line 6, of the Schroeder patent, and the White and Lykens patents, it is our conclusion that they would not have been suggestive of appellant's invention. In particular, while White may have broadly suggested to a person of ordinary skill in the art fastening the rim 22 of the AAPA directly to the existing support structure through the backboard 20 to minimize the possibility of the rim being broken off by a player hanging on the rim (see column 1, lines 62-66, and column 3, lines 5-10), we find nothing in the teachings of White which would have suggested providing a center bracket as called for in each of independent claims 1, 7, 12 and 18, connected directly to the slides 58 and having openings for fastening the rim 22 in the Schroeder AAPA support structure. Even if the goal mounting member 44 of White could reasonably be considered to be a "slide" as set forth in each of appellant's independent claims, a point on which we do not agree with the examiner, it is not apparent to us why one of ordinary skill in the art would have

found any suggestion in White's teachings to modify the AAPA support structure so as to provide a vertically extending center bracket, like the vertical supports 28 of White, with attached "slides" (goal mounting members 44 of White), or even how such additional structure would be incorporated into the AAPA structure. Rather, White would appear to suggest mounting of the rim to the lateral supports 52 (the backboard mount) of the AAPA structure. Lykens discloses a mounting structure for mounting a backboard 10 and net organization 11 and, like the AAPA of Figure 2 of Schroeder, provides no details as to the manner of mounting the net organization and, thus, provides no cure for the deficiency of the combined teachings of the AAPA and White discussed above.

For the foregoing reasons, we shall not sustain the examiner's rejection of independent claims 1, 7, 12 and 18, or, it follows, of dependent claims 3-6, 8-11, 13-17 and 19-25.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1 and 3-25 under 35 U.S.C. § 103(a) is reversed.

REVERSED

NEAL A. ABRAMS
Administrative Patent Judge

LAWRENCE J. STAAB
Administrative Patent Judge

JENNIFER D. BAHR
Administrative Patent Judge

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Appeal No. 2002-0152
Application No. 09/004,775

Page 8

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